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WP.Nos.2261 & 2262 of 2015



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-06-2025

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THE HONOURABLE MRS. JUSTICE N. MALA

WP.Nos.2261 & 2262 of 2015

and

M.P.Nos.1 & 1 of 2015

WP.No.2261 of 2015

Krishnaswamy Nagar - Ganga Nagar,
Amenities and Welfare Association
Rep. by its Executive Committee,
having office at Krishnaswamy Nagar,
Ramanathapuram, Coimbatore - 641 045.

... Petitioner

Vs.

1. Krishnaswamy Nagar Co-Operative
Housing Building Society Ltd.,
No.K-1770, Rep. by its President,
having Office at Krishnaswamy Nagar,
Ramanathapuram, Coimbatore - 641 045.
2. The Deputy Registrar of
Co-Operative Societies (Housing),
Chinthamani Complex, Coimbatore.



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3. The Post Master,
Krishnaswamy Nagar Post Office,
Ramanathapuram, Coimbatore - 641 045.

4. The Office of the Senior Superintendent of Post Offices,
Coimbatore Division, Coimbatore - 641 001.

... Respondents

PRAYER Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Certiorari, calling for the records of the second respondent in regard to A.R.C. No.1 of 2011-12 dated 25.04.2012 and quash the same as illegal and without jurisdiction.

For Petitioner	: Mrs. Chitra Sampath, Senior Advocate for Mr.Vignesh Aravindh
For R1	: M/s. I. Abbar Md.Abdullah
For R2	: Mr.T.Chezhiyan, Additional Government Pleader
For R3 & R4	: Mr.P.R.Ramesh Babu

WP.No.2262 of 2015

Krishnaswamy Nagar - Ganga Nagar,
Amenities and Welfare Association
Rep. by its Executive Committee,
having office at Krishnaswamy Nagar,
Ramanathapuram, Coimbatore - 641 045.

... Petitioner

Vs.

1. Krishnaswamy Nagar Co-Operative
Housing Building Society Ltd.,
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having Office at Krishnaswamy Nagar,
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2. The Deputy Registrar of

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Chinthamani Complex, Coimbatore.

3. Dynaspede Integrated Systems Pvt. Ltd.,
Branch Office, #24, Krishnaswamy Nagar,
50 feet Road, Ramanathapuram,
Coimbatore - 641 045.

4. Mr.Nagarajan,
Cable Office, Krishnaswamy Nagar,
50 feet Road, Ramanathapuram, Coimbatore - 641 045.

... Respondents

PRAYER Writ Petition filed under Article 226 of the Constitution of India,
praying for the issuance of a direction in the nature of Writ of Certiorari, calling
for the records of the second respondent in regard to A.R.C. No.1 of 2012-13
dated 25.06.2012 and quash the same as illegal and without jurisdiction.

For Petitioner	: Mrs. Chitra Sampath, Senior Advocate for Mr.Vignesh Aravindh
For R1	: M/s. I. Abbar Md.Abdullah
For R2	: Mr.T.Chezhiyan, Additional Government Pleader
For R3 & R4	: Mr.P.R.Ramesh Babu

**COMMON ORDER**

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These writ petitions are filed to call for the records of the second respondent in A.R.C. No.1 of 2011-12 dated 25.04.2012 and A.R.C. No.1 of 2012-13 dated 25.06.2012 and to quash the same as illegal and without jurisdiction. As common issues of law and facts arise in the writ petitions, the same are disposed of by this common order.

2. The deponent is the Secretary of the petitioner association. According to the deponent, he is authorised to file these writ petitions by the resolution dated 18.12.2014 of the petitioner Association.

3. The petitioner association is a registered body, comprising of members who are resident's of various plots in Krishnaswamy Nagar and Ganga Nagar layout. In the year 1971, the petitioner association was formed for the welfare and benefit of its members, and for effective administration and maintenance of the common facilities, in Krishnasamy Nagar and Ganga Nagar. While so, the



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first respondent society, which was originally formed for promoting the above stated layout, by resolution dated 27.02.1972, handed over the management of all the common areas and utilities to the petitioner Association. In furtherance of the said resolution, the first respondent executed and registered two lease deeds on 12.01.1973 and 03.09.1987, in favour of the petitioner association in respect of the common areas, particularly the shops, buildings, school, vacant site, Vinayagar Temple etc., for a rent of Rs.1/- under each of the documents for a period of 99 years. Under the aforesaid lease deeds, the petitioner Association was given the right to administer and maintain the common areas with their own resources and without any financial assistance from the first respondent society.

4.The petitioner states that the 1st respondent Society became defunct. However, the 1st respondent on 15.12.2010, issued a letter to the petitioner Association questioning the validity of the leases, sought for enhancement of rent and further directed the petitioner to obtain necessary permission from the Government. On 12.04.2011, the petitioner Association sent a reply stating that a decision would be taken in its General Body Meeting. Thereafter, the



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petitioner Association agreed for enhancement of rent from Rs.6000/- to Rs.12,000/- per month. Even after enhancement of rent, the 1st respondent issued a legal notice on 17.12.2011, for which an appropriate reply was issued on 04.01.2012. While so, disputes continued between the petitioner Association and the 1st respondent which culminated in the initiation of proceedings under Section 90, of the Tamil Nadu Cooperative Societies Act. The 2nd respondent received the petitions for Arbitration under Section 90 of the Cooperative Societies Act, with respect to the above lease deeds, and took the arbitration petitions on file in respect of lease deed dated 12.01.1973 in ARC.No.1/2011-12 and ARC.No.1/2011-12 in respect to lease dated 03.09.1987, and ordered notice in the proceedings to the petitioner Association. Aggrieved by the aforesaid Arbitration proceedings initiated under Section 90 of the Cooperative Societies Act, the petitioner Association filed the above writ petition for the aforesaid relief.

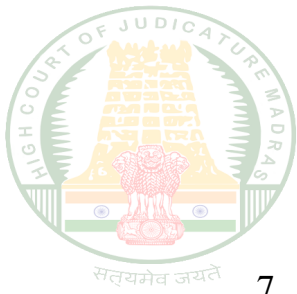
5. The first respondent filed a counter affidavit as well as an additional counter affidavit. The first respondent in the counter affidavit, submitted that



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the writ petitions were liable to be dismissed as pre-mature as the challenge was only to the notices and not final orders. It was further stated that the lease agreements in favour of the petitioner by the erstwhile directors, were made with ulterior motive and against the interest of the first respondent society. The first respondent further stated that as the lease deeds pertained to the common amenities of the members, the first respondent had every right to deal with the same. The first respondent questioned the petitioner's right to run the school functioning on lands meant for common amenities. The first respondent further stated that the writ petitions were not maintainable, because it was only the Civil Court which had jurisdiction to decide on the validity of the lease deeds. Accordingly, the first respondent prayed for dismissal of the writ petitions.

6. The first respondent in his additional counter affidavit, stated *inter alia* that, from a verification of all the records in the office of the District Registrar, Coimbatore, it was found that the registration No.756/1970 of the petitioner Association was itself fake.



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7. The second respondent in its common additional affidavit adopted the submissions of the 1st respondent in its counter affidavit and prayed for dismissal of the writ petitions.

8. The respondents 3 and 4 who are tenants, stated that they came to know about the dispute as to ownership between the petitioner Association and the 1st respondent from the legal notice dated 11.01.2012. The respondents 3 and 4 further submitted that because of the ownership dispute, the rents were not paid from January 2012, onwards. They prayed for dismissal of the writ petitions.

9. The petitioner filed a reply affidavit and additional reply affidavit to the counter affidavits of the respective respondents.

10. The learned Senior counsel for the petitioner submitted that the impugned proceedings were liable to be quashed as the second respondent had



no jurisdiction to invoke section 90 of the Tamil Nadu Co-operative Society

Act, since the petitioner Society was not registered society under the

Co-operative Society Act, but one registered under the Tamil Nadu Societies

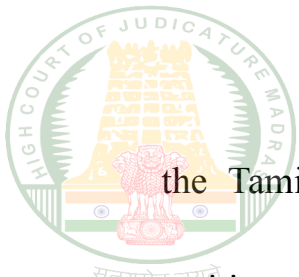
Registration Act. The learned counsel therefore, submitted that the impugned

proceedings under Section 90, were unsustainable and liable to be set aside.

11. Heard the learned Senior counsel for the petitioner and the learned counsel for the respondents 2, 3 and 4 and perused the materials placed on record.

12. The facts are undisputed and the only legal issue to be settled in the writ petitions is whether the impugned proceedings of the 2nd respondent invoking Section 90 of the Co-operative Society Act, are unsustainable.

13. Admittedly, the petitioner Association is not registered under the Tamil Nadu Co-operative Societies Act, but is one registered under the Tamil Nadu Societies Registration Act. The first respondent alone is registered under



the Tamil Nadu Co-operative Societies Act. Whether the members of the petitioner Association are also members of the 1st respondent Society is a contentious issue as there is no consensus on the same.

14. Section 90 of the Tamil Nadu Co-operative Societies Act, 1983, insofar as it is relevant to the present case is extracted below:-

"90. Disputes.

(1) If any dispute touching the constitution of the board or the management or the business of a registered society (other than a dispute regarding disciplinary action taken by the competent authority constituted under subsection (3) of Section 75 or the Registrar or the society or its board against a paid servant of the society) arises:-

- (a) among members, past members and persons claiming through members, past members and deceased members, or*
- (b) between a member, past member or person claiming through a member, past member or deceased member and the society, its board or any officer, agent or servant of the society, or*
- (c) between the society or its board and any past board, any officer, agent or servant, or any past officer, past agent or past servant, or the nominee, heirs or legal representatives of any deceased officer, deceased agent, or deceased servant of the society, or*



(d) between the society and any other registered society, such dispute shall be referred to the Registrar for decision.

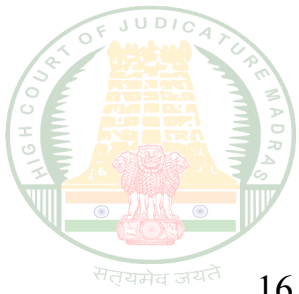
Explanation: For the purposes of this Section, a dispute shall include

(i) a claim by a registered society for any debt or demand due to it from a member, past member or the nominee, heir or legal representative of a deceased member whether such debt or demand be admitted or not;

(ii) a claim by a registered society against a member, past member or the nominee, heir or legal representative of a deceased member for the delivery of possession to the society of land or other immovable property resumed by it for breach of the conditions to assignment or allotment of such land or other immovable property;

15. The jurisdiction to invoke Section 90 of the Tamil Nadu Cooperative Societies Act, arises only in specific instances as delineated under the said provision. That is to say such jurisdiction is attracted only when a dispute exists between the following classes of persons or entities:

- (i) members, past members and persons claiming through them.*
- (ii) Members, past members or representative and the society, its board or any officer.*
- (iii) the society or its board and any past board, any officer and representative of any officer.*
- (iv) The society and any other registered society.*



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16. The contention advanced by the learned Senior counsel is that the proceedings have not been validly initiated, as the dispute is not covered by Section 90[1][d] of the Cooperative Societies Act. The said clause provides that the disputes between a Society and any other registered society can be referred to the Registrar for adjudication. According to the learned Senior counsel since the petitioner Society is not registered under the Tamil Nadu Cooperative Societies Act, Section 90[1][d] could not be invoked against the petitioner Society. In support of the said submission, reliance is placed by the learned Senior Counsel on Section 2[22] of the Tamil Nadu Co-operative Society Act, which defines "Registered Society" as follows:-

"Registered society means co-operative society registered or deemed to be registered under this Act."

17. In my considered view, the expressions "the society" and "any other society" appearing in Section 90[1][d] derive their meaning from the definition "registered Society" under Section 2[22] of the Act. As per the said definition, a registered society is one which is registered or deemed to be registered under

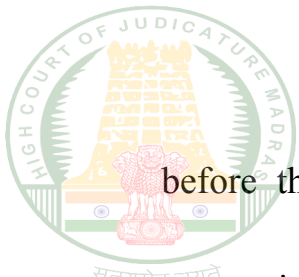


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"this Act" namely, Tamil Nadu Cooperative Societies Act. Consequently, any society falling within the scope of Section 90[1][d] must necessarily be one

registered under the said enactment. Therefore in my view, the Registrar's jurisdiction under Section 90[1][d] can be invoked only when both the Societies involved in the dispute are registered under the Tamil Nadu Cooperative Societies Act. A Society registered under any other statute, such as the Societies Registration Act, will not fall within the ambit of the term "registered society".

In the present case, the petitioner Society is admittedly registered under the Tamil Nadu Societies Registration Act. Accordingly, the invocation of the powers by the 1st respondent under Section 90 of the Tamil Nadu Cooperative Societies Act, is wholly without jurisdiction. I therefore find merit in the submissions of the learned Senior counsel for the petitioner, and hence, the proceedings initiated under Section 90 of the Tamil Nadu Cooperative Societies Act, by the 1st respondent, are held to be without jurisdiction and are accordingly quashed. Yet, the 1st respondent is not without any remedy. The validity of the disputed lease deeds and whether the member's of the petitioner's society are also members of the respondent's society, can always be agitated



before the Civil Court, which in my considered view, would be the most appropriate Forum to decide the issues.

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18. In view of the above discussions, I find merit in the writ petitions and hence, these writ petitions are allowed and the impugned proceedings are set aside. It is open to the parties to approach the competent Civil Court to resolve their dispute, if so advised. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

30.06.2025

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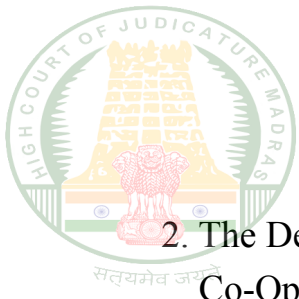
Index: Yes/No

Internet : Yes/No

Speaking/Non-speaking order

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having Office at Krishnaswamy Nagar,
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